

### **REMARKS**

The Applicants sincerely appreciate the thorough examination of the present application as evidenced by the Office Action of September 21, 2007. In response, the Applicants have amended independent Claims 1, 17, and 33 to clarify the term "physical location information"; rewritten Claims 4, 20, and 36 in independent form; and added new Claims 49-54. The Applicants have also amended the dependencies of Claims 11-12, 27-28, and 43-44. The Applicants will show in the following remarks that all claims are patentable over the cited art. Accordingly, a Notice of Allowance is respectfully requested in due course.

### **Statement Of The Substance Of The Interview**

The Applicants sincerely appreciate all courtesies extended by Examiner Tieu during the telephonic interview of November 19, 2007. In particular, the Applicants appreciate the opportunity to discuss the subject matter of Claims 1, 4, and 11. The Applicants also appreciate the Examiner's indication that he will initiate correction of the filing date in the U.S. Patent Office records in accordance with the Decision Granting Petition issued by the U.S. Patent Office on January 27, 2007.

The Applicants believe that this paper satisfies all requirements for a Statement of the Substance of the Interview as set forth in 37 C.F.R. Sec. 1.133 and MPEP Sec. 713.04. If the Examiner should believe that any further submission should be required with respect to the telephonic interview of November 19, 2007, the Applicants respectfully request that the Examiner contact the undersigned attorney (Scott C. Hatfield) via telephone at (919) 854-1400.

### **Claims 1, 17, And 33 Are Patentable Over The Cited Art**

Independent Claim 1 has been amended to include all recitations of dependent Claim 11, independent Claim 17 has been amended to include all recitations of dependent Claim 27, and independent Claim 33 has been amended to include all recitations of Claim 43. Independent Claims 1, 17, and 33 and dependent Claims 11, 27, and 43 have been rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over U.S. Patent No. 5,933,778 to

Buhrmann et al. ("Buhrmann") in view of U.S. Patent Publication No. 2002/0035605 to McDowell et al. ("McDowell"). The Applicants respectfully submit, however, that Claims 1, 17, and 33 (amended to include the respective recitations of Claims 11, 27, and 43) are patentable over the combination of Buhrmann and McDowell for at least the reasons discussed below. Claim 1 (as amended to include all recitations of Claim 11), for example, recites a method of providing messages for a user, the method comprising:

- accepting entry of a message for the user;
- accepting entry of a location criteria associated with the message;
- obtaining physical location information for a wireless communications device associated with the user wherein the physical location information identifies a physical location of the wireless communications device; and
- transmitting the message for the user when the physical location information for the wireless communications device matches the location criteria associated with the message wherein transmitting the message for the user comprises transmitting the message to an electronic device other than the wireless communications device at a location identified by the physical location information.

The Applicants respectfully submit that the cited art fails to teach or suggest transmitting a message when physical location information for a wireless communications device matches location criteria associated with the message wherein the message is transmitted to an electronic device other than the wireless communication device.

In support of the rejection of Claim 11, the Office Action states that: "McDowell further teaches limitations of the claim in paragraphs [0113]-[0115]." Office Action, page 4. As discussed in McDowell:

Through this independent account, the merchant has private information about the subscriber, including her mobile phone number. The merchant determines the subscriber's presence or location information using a Network API, and then delivers a message directly to the subscriber using email or some other WAP or SMS message delivery service.

McDowell, page 10, paragraph [0107]. Moreover:

The Campaign Manager identifies a group of target subscribers ... and delivers messages based on interests and permissions, and delivers messages or e-coupons to those subscribers only when certain location, presence, and timing criteria are met.

McDowell, page 10, paragraph [0110]. In addition:

As soon as the merchant's criteria are satisfied for a given subscriber, the Campaign Manager delivers the merchant's message or e-coupon using WAP or SMS.

McDowell, page 11, paragraph [0114]. McDowell thus appears to discuss determining a location of a mobile phone and delivering a merchant's message or e-coupon to that mobile phone. McDowell, however, fails to teach or suggest transmitting a message when physical location information for a wireless communications device matches location criteria associated with the message wherein the message is transmitted to an electronic device other than the wireless communication device. Buhrmann fails to provide these missing teachings, and the Office Action does not allege that these missing teachings are taught by Buhrmann.

Accordingly, the Applicants submit that Claim 1 is patentable. The Applicants further submit that Claims 11, 17, 27, 33, and 43 are patentable for reasons similar to those discussed above with respect to Claim 1. In addition, dependent Claims 2-10, 12-16, 18-26, 28-32, 34-42, and 44-54 are patentable at least as per the patentability of Claims 1, 17, and 33 from which they depend.

#### **Claims 4, 20, And 36 Are Patentable Over The Cited Art**

Claims 4, 20, and 36 have been rewritten in independent form, and these claims have been rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over Buhrmann in view of

McDowell and further in view of U.S. Patent No. 5,793,859 to Matthews ("Matthews"). The Applicants respectfully submit, however, that Claims 4, 20, and 36 are patentable over the combination of Buhrmann, McDowell, and Matthews for at least the reasons discussed below. Claim 4, for example, recites a method of providing messages for a user, the method comprising:

- accepting entry of a message for the user;
- accepting entry of a location criteria associated with the message;
- obtaining physical location information for a wireless communications device associated with the user wherein the physical location information identifies a physical location of the wireless communications device; and
- transmitting the message for the user when the physical location information for the wireless communications device matches the location criteria associated with the message, wherein the location criteria identifies a physical address, wherein the location criteria identifies one of a plurality of physical addresses associated with the user, and wherein the plurality of physical addresses associated with the user comprises a first address for a residence of the user and a second address for a workplace of the user.

The Office Action concedes that Buhrmann and McDowell, in combination, fails to clearly teach the physical addresses being residence and office addresses of the user. In support of the rejection, the Office Action states that:

Matthews teaches a system that allows subscriber to setup to route a call to one of his/her physical addresses: recipient's office, location of automobile and recipient's home (see col. 5, lines 9-17) for a purpose of terminating the call for the recipient.

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to incorporate the use of the feature of physical addresses being residence and office addresses of the user, as taught by Matthews, into view of Buhrmann and McDowell in order to send message to recipient's designated physical destination associated with the wireless terminal.

Office Action, page 8.

The Applicants respectfully submit, however, that it would not be obvious to selectively combine elements of the adaptive telephone number selection method of Matthews with providing telecommunication services based on a subscriber profile as discussed in Buhrmann and/or the use of presence and location information for instant messaging and mobile commerce as discussed in McDowell to somehow teach or suggest the recitations of Claim 4. In particular, cited portions of Matthews state that:

In response to this number receiving this telephone call, central office 46 directs a call to a telephone at one of the possible locations for the intended call recipient such as possible locations 48, which may include, for example, the recipient's office 50, the recipient's cellular phone in the recipient's automobile 52, or the intended call recipient's home 54. The success of a call to one of the possible locations 48 in FIG. 3 and actions of the present embodiment in response to such success are described in more detail in FIG. 4.

Matthews, col. 5, lines 9-17. As discussed in the technical field of the invention, Matthews states that:

This invention relates ... to an electronic signal processing method and system for an adaptive telephone number selection having the ability to automatically locate and call an intended call recipient as a function of previously successful calling attempts.  
(Underline added.)

Matthews, col. 1, lines 6-10. Matthews thus appears to discuss selecting one of a plurality of telephone numbers for an intended recipient. In sharp contrast, McDowell appears to discuss determining a location of a mobile phone and delivering a merchant's message or e-coupon to

that mobile phone (as discussed above with respect to Claim 1). Accordingly, Matthews and McDowell teach away from the combination proposed in the Office Action. Stated in other words, selection from a plurality of telephone numbers as discussed in Matthews teaches away from determining a location of a particular mobile phone and delivery to that mobile phone. The Applicants respectfully submit that the Office Action appears to rely on improper hindsight in light of the Applicants' specification to reject the subject matter of Claim 4.

Accordingly, the Applicants submit that Claim 4 is patentable over the cited art. The Applicants further submit that Claims 20 and 36 are patentable for reasons similar to those discussed above with respect to Claim 4. In addition, dependent Claims 11, 27, and 43 are patentable at least as per the patentability of Claims 4, 20, and 36 from which they depend.

**Recognition Of The Proper Filing Date Is Respectfully Requested**

The Application was filed on June 26, 2003, but the Filing Receipt incorrectly provided the filing date as June 27, 2003. In response, the Applicants filed a Petition to Accord The Proper Filing Date on September 22, 2004, and the U.S. Patent Office issued a Decision Granting Petition (the Decision) on January 27, 2005. In particular, the Decision states that:

it is confirmed that the package bearing Express Mail label No. EV35308431US was accepted at the USPS on June 26, 2003, and the filing date of the application is accorded such.

This application file is being returned to the Office of Initial Patent Examination Division for correction of the filing date to June 26, 2003.

A copy of the Decision is attached.


The Office Action, however, incorrectly lists the filing date as June 27, 2003, and this date is also incorrectly listed as the filing date in the U.S. Patent Office PAIRS information for this Application. Accordingly, the Applicants respectfully request that the U.S. Patent Office correct the filing date for this Application in accordance with the Decision Granting Petition. The Applicants do not believe that a Petition is required to proceed with correcting the filing date. If a Petition is required, however, the Applicants request that this paper be considered a Petition therefore.

In re: Maria Adamczyk *et al.*;  
App.Ser.No. 10/606,675  
Filed: June 27, 2003  
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### CONCLUSION

Accordingly, the Applicants submit that all pending claims in the present application are in condition for allowance, and a Notice of Allowance is respectfully requested in due course. The Examiner is encouraged to contact the undersigned attorney by telephone should any additional issues need to be addressed.

Respectfully submitted,



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### CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on December 20, 2007.

Signature: Mary Moore  
Mary Moore